

AO 243 (Rev. 10/16)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

UNITED STATES OF AMERICA

7:18-cv-08005-LSC

-v-

Civil Action No.: _____
(to be filled in by the
Clerk's Office)

JABORIS ANTONIO WALKER

Movant

(Full name under which you were convicted)

Prisoner No.: 34528-001Place of Confinement: Bennettville FCIAddress: P.O. Box 52020Bennettville

City

SC

State

29512

Zip Code

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:
United States District Court for the Northern District of Alabama
Federal building and United States Courthouse
2005 University Boulevard Tuscaloosa, Alabama, 35401
- (b) Criminal docket or case number (if you know): 7:16-CR-00157-LSC-SGV-1
2. (a) Date of the judgment of conviction (if you know): March 6th, 2017
- (b) Date of Sentencing: March 2nd, 2017
3. Length of Sentence: 180 Months (15 Years)
4. Nature of crime (all counts): Felon in Possession of a Firearm (18 U.S.C. §922(g)(1))
5. (a) What was your plea? (Check one)
 (1) Not guilty ☐ (2) Guilty ☒ (3) Nolo contendere (no contest) ☐

- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____

Not applicable

6. If you went to trial, what kind of trial did you have? (Check one) ☐ Jury ☐ Judge only
7. Did you testify at a pretrial hearing, trial, or a post-trial hearing? ☐ Yes ☒ No
8. Did you appeal from the judgment of conviction? ☒ Yes ☐ No

9. If you did appeal, answer the following:

- (a) Name of court: USCA 11th Circuit
- (b) Docket or case number (if you know): 17-15727-H
- (c) Result: Appeal still pending
- (d) Date of Result (if you know): _____
- (e) Citation to the case (if you know): _____
- (f) Grounds raised: The district court abused it's discretion when it upwardly departe from the applicable sentencing guidelines range. Because issues on direct appeal are necessarily separate and different issues that can be raised on collateral attack, the arguments made therein focused on the abuse of discretion standard, rather than an attack on the sentence itself for the misapplication of ACCA predicate offense definitions and enhancements.

- (g) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☐ No

If yes, answer the following:

- (1) Docket or case number (if you know): _____
- (2) Result: _____
- (3) Date of result (if you know): _____
- (4) Citation to the case (if you know): _____
- (5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

- (a)
- (1) Name of court: _____
 - (2) Docket or case number (if you know): _____
 - (3) Date of filing (if you know): _____
 - (4) Nature of the proceeding: _____
 - (5) Grounds raised: _____

 - (6) Did you receive a hearing where evidence was given on your motion, petition, or application? ☐ Yes ☐ No
 - (7) Result: _____
 - (8) Date of result (if you know): _____
- (b) If you filed any second motion, petition, or application, given the same information:
- (1) Name of court: _____
 - (2) Docket or case number (if you know): _____
 - (3) Date of filing (if you know): _____
 - (4) Nature of the proceeding: _____
 - (5) Grounds raised: _____

- (6) Did you receive a hearing where evidence was given on your motion, petition, or application? ☐ Yes ☐ No
- (7) Result: _____
- (8) Date of result (if you know): _____
- (c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?
- (1) First petition: ☐ Yes ☐ No
- (2) Second petition: ☐ Yes ☐ No
- (d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____
- _____
- _____
- _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

GROUND ONE: I was sentenced to a 15-year mandatory minimum sentence under the Armed Career Criminal Act, in contravention to the Supreme Court decision in Johnson and its progeny.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):
In my Presentence Investigation Report (PSR) my criminal history contained convictions for sale, distribution of a controlled substance within 3 miles of a school, possession of marijuana, and growing marijuana. Under retroactive clarifications on the ACCA applicability of predicate offenses which trigger ACCA sentences, the Supreme Court has made clear the prior offenses in my PSR do not qualify as predicate "serious drug offenses" for enhancement purposes. My sentence should be vacated and I should be resentenced the 15-year floor mandated by triggering ACCA
- (b) **Direct Appeal of Ground One:**
- (1) If you appealed from the judgment of conviction, did you raise this issue:
☒ Yes ☐ No

- (2) If you did not raise this issue in your direct appeal, explain why: _____
As collateral attacks necessarily address different issues that can be brought up on
direct appeal, my direct appeal addressed this issue from an appropriate vehicle.

(c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

☐ Yes ☒ No

- (2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application:

☐ Yes ☐ No

- (4) Did you appeal from the denial of your motion, petition, or application:

☐ Yes ☐ No

- (5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion and order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not raise this issue: _____

GROUND TWO: _____

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

- (b) **Direct Appeal of Ground Two:**

- (1) If you appealed from the judgment of conviction, did you raise this issue:

☐ Yes ☐ No

- (2) If you did not raise this issue in your direct appeal, explain why: _____

- (c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

☐ Yes ☐ No

- (2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application:

☐ Yes ☐ No

- (4) Did you appeal from the denial of your motion, petition, or application:

☐ Yes ☐ No

- (5) If your answer to Question (c)(4) is “Yes,” did you raise this issue in the appeal?

☐ Yes ☐ No

- (6) If your answer to Question (c)(4) is “Yes,” state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court’s decision: _____

Result (attach a copy of the court’s opinion and order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is “No,” explain why you did not raise this issue: _____

GROUND THREE: _____

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

- (b) **Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue:

☐ Yes ☐ No

- (2) If you did not raise this issue in your direct appeal, explain why: _____

- (c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

☐ Yes ☐ No

- (2) If your answer to Question (c)(1) is “Yes,” state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court’s decision: _____

Result (attach a copy of the court’s opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application:

☐ Yes ☐ No

- (4) Did you appeal from the denial of your motion, petition, or application:

☐ Yes ☐ No

- (5) If your answer to Question (c)(4) is “Yes,” did you raise this issue in the appeal?

☐ Yes ☐ No

- (6) If your answer to Question (c)(4) is “Yes,” state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court’s decision: _____

Result (attach a copy of the court’s opinion and order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is “No,” explain why you did not raise this issue: _____

GROUND FOUR: _____

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue:

☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

☐ Yes ☐ No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application:

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion, petition, or application:

☐ Yes ☐ No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion and order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not raise this issue: _____

13. Is there any ground in this petition that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

As the issue presented here is a collateral attack unique to §2255 habeas motions, the particular route for attacking my predicate offenses which triggered sentencing under the ACCA would have been inappropriate in a direct appeal. Therefore, this petition is the first instance where these arguments are appropriate to be made.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised: I have a pending pro se direct appeal pending before the 11th Circuit now. See question 9 (above) and 11th Circuit docket #17-15727-H

15. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing: Kevin L. Butler

505 20th Street North, Suite 1425, Birmingham, AL 35203

(b) At arraignment and plea: Glennon F. Threath, Jr. & Robin Robertson

505 20th Street North, Suite 1425, Birmingham, AL 35203

(c) At trial: _____

(d) At sentencing: William Myers

950 22nd Street North, Suite 622, Birmingham, LA 35203

(e) On appeal: _____

- (f) In any post-conviction proceeding: _____

- (g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Were you sentenced on more than one count of indictment, or on more than one indictment, in the same court and at the same time? ☐ Yes ☒ No
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:

- (b) Give the date the other sentence was imposed: _____
- (c) Give the length of the other sentence: _____
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No
18. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one (1) year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your petition.¹
- As I was sentenced on March 2nd, and Judgment entered March 6th, both of 2017, my motion
is timely in either respect pursuant to 28 U.S.C. §2255(f)(1) & (3).

¹ The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

[illegible]

Therefore, movant asks that the court grant the following relief: Vacate my sentence and re-sentence without
ACCA enhancements.

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this
Motion under 28 U.S.C. § 2255 was placed in the prison on _____ (month, date, year).

Executed (signed) on _____
(date)

Signature of Movant

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

JABORIS ANTONIO WALKER,)
 Petitioner,)
)
vs.) Case No. 7:16-CR-00157-LSC-SGC
)
UNITED STATES OF AMERICA,)
 Respondent.)

MOTION TO VACATE, SET ASIDE, OR CORRECT
A FEDERAL SENTENCE PURSUANT TO 28 U.S.C. § 2255

COMES NOW the Petitioner, Jaboris Antonio Walker, pro-se, and respectfully moves this Honorable Court to Vacate, Set Aside, or Correct his federal sentence. As grounds for this request, Petitioner submits a United States Supreme Court decision, Mathis v. United States, 136 S.Ct. 2243, 195 L.Ed 2d 604 (June 23, 2016) and also United States v. Hinkle, 832 F.3d 569 (5th Cir. 2017).

Petitioner submits the following:

I. Case History

A. A June 2016 Grand Jury returned a one-count indictment, charging the Petitioner as follows: (1) On or about November 1, 2015, Petitioner possessed a firearm, a Hi-Point 9mm pistol after having previously been convicted of felony offenses.

B. On July 28, 2016, a memorandum on a superceding indictment was filed which corrected one of the previous convictions contained in the original indictment. No other charges were listed.

C. A criminal forfeiture was also alleged pursuant to 18 U.S.C. §§ 924(d) and 28 U.S.C. 2461(c). On July 28, 2016, the Petitioner/Defendant plead guilty to Count 1 in the superseding indictment. There is no written plea agreement (binding plea).

D. This is a Title 18 offense, and there is no identifiable victim other than the community at large. Because Mr. Walker entered a guilty plea, a downward adjustment for acceptance of responsibility was appropriate. Sentencing took place on March 3, 2017.

E. Ultimately, and due to misapplication of the Armed Career Criminal Act (ACCA), Petitioner was sentenced to 15 years of imprisonment.

II. Former predicates were used to enhance Petitioner's federal sentence.

The guideline for this violation of 18 U.S.C. § 922(g)(1) is found in United States Sentencing Guidelines (USSG) § 2K2.1 (a)(4)(A). Petitioner has questionable prior "controlled substance offense" convictions. He was convicted on July 22, 2014, of Unlawful Distribution of a Controlled Substance in Tuscaloosa, Alabama, Circuit Court (CC43-3436). Because Petitioner possessed a firearm in connection with the felony offense and pending charge

of Possession/Receipt of a controlled substance (cocaine) in Tuscaloosa County, Alabama, Circuit Court (CC-16-865), 4 levels have been added pursuant to § 2K2.1(b)(6)(B). The other specific offense characteristics and cross references were considered, but determined not to apply.

DISCUSSION

III. Petitioner raises one ground for relief in this § 2255. His prior drug convictions can no longer be used as predicates for Career Offender enhancement purposes. The Armed Career Criminal conviction is invalid.

This claim is based upon the Supreme Court's "new substantive" rule announced in *Mathis*, supra. This motion is timely and correctly filed within the 1-year statute pursuant to § 2255(f)(3). Relief is available under 2255 when the claimed errors of law are "a fundamental defect which inherently results in a complete miscarriage of justice" or "an omission inconsistent with the rudimentary demands of fair procedure." See, *United States v. Hill*, 2017 U.S. Dist. LEXIS 25034 (quoting *Hill v. United States*, 368 U.S. 424, 7 L. Ed. 2d 417 (1962)).

IV. *Mathis* applies retroactively.

The Supreme Court has created separate retroactivity standards for new rules of criminal procedure and new decisions of substantive criminal law." Under the substantive retroactivity standard,

the appropriate inquiry is whether the claimed legal error was a fundamental defect which inherently results in a complete miscarriage of justice, and whether it presents exceptional circumstances where the need for the remedy afforded by collateral relief is apparent." In reaching this conclusion, the Seventh Circuit's analysis on the Court's authority to determine if a Supreme Court decision applies retroactively.

V. Mathis announced a new substantive rule.

As mentioned, above, Mathis announced a "new substantive rule". See, United States v. Rico-Mejia, No. 16-50022, 2017 U.S. App. LEXIS 2455 (5th Cir. 2017); see also, United States v. Hinkle, 832 F.3d 574 (5th Cir. 2016). The Fifth Circuit adopting the Mathis approach in Hinkle. District Courts around the United States have likewise adopted the Mathis approach to cases on collateral review. See, Hill v. United States, 2016 U.S. Dist. LEXIS 171363 (W.D. Tex.)(granting resentencing based on Mathis and Hinkle). Hill v. Willis, 2017 U.S. Dist. LEXIS (W.D. Tex.)(Mathis, Hinkle and Tanskley on collateral review); United States v. Jones, 2017 U.S. Dist. LEXIS 6519 (E.D. Ky)(same); United States v. Richards, 2017 U.S. Dist. LEXIS 3094 (E.D. Mich)("The Petitioner has raised a colorable argument that Hinkle should be adopted. This is a complicated and rapidly changing area of law.")(appointing counsel for the defendant).

VI. Prior Offenses

Petitioner herein asserts that his prior drug convictions do not qualify as predicates for imposition of the ACCA. Specifically, he was charged with - Count One: did unlawfully sell, furnish, give away, manufacture, deliver or distribute a controlled substance to wit: Marijuana, in violation of section 13A-12-211 of the Code of Alabama. He was also charged with furnishing, delivery or distribution of said controlled substance being in the form of a sale, occurred within a 3 mile radius of the campus boundaries of any public or private school, college, university or other educational institution, in violation of section 13A-12-250 of the Code of Alabama.

Count Two charged Petitioner with violating 13A-12-213 of the Code of Alabama for unlawfully and knowingly possessing marijuana for other than personal use, or for personal use only after having been previously convicted of unlawful possession of marijuana in the second degree or unlawful possession of marijuana for personal use only.

Count Three also charged Petitioner with violating 13A-12-213. Count Four: charged with packaging material, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal a controlled substance, in violation of section 13A-12-260(C) of the Code of Alabama.

Safety Code Ann. § 481.002(8) on which a defendant's conviction was based, Mathis makes clear that sentencing courts may no longer do so.

The delivery element of the Alabama Codes in question here, criminalizes a greater swath of conduct than the elements of the relevant guidelines offense. This mismatch of elements means that the Petitioner's conviction under Alabama Codes 13A-12-250, 13A-12-211(c), 13A-12-212, 13A-12-214, 13A-12-231, and 13A-12-260 are not "serious drug offenses" for enhancement purposes. Further, Descamps v. United States, 133 S.Ct. 2276, 186 L.Ed 2d 438 (2013), applies retroactively when determining whether prior convictions qualify as predicate offenses under the ACCA's elements and enumerated clauses.

Here, the Petitioner plead guilty to all of the "deliveries" which were then used to punish him as a career offender even though the prior offenses are "broader than the generic offenses" and therefore are disqualified under the rule stated in Mathis.

VII. Conclusion

WHEREFORE, based on the above, Petitioner asserts that he no longer qualifies as an Armed Career Criminal or a Career Criminal and that he is due to be resentenced minus the enhancements. As this case is difficult, he pleads the Court will appoint CJA counsel to assist him and the Court with these issues presented.

So prayed.

Company Name: FEDERAL PUBLIC DEFENDER

PREPARED FOR: Glennon F Threatt

alacourt.com

Search Criteria: Name: walker jaboris antonio, SSN: None, County: ALL, Division: Criminal, DOB: None, Case Year: ALL, Filing Date: None

22 records.

County	Case Number	Name	DOB	Charge	Status	DOB	Sex	Race	Arrest Date	Disposition	Case Number
63	CC20100008400	WALKER JABORIS ANTONIO	MBA	POSS/REC CONTR. SUBS	Bond	3/28/1985	M	B			XXX-XX-X463
63	DC201500256000	WALKER JABORIS ANTONIO	DDD	PISTOL-CERTAIN PERSON	Other	3/28/1985	M	B	11/30/2015	Transferred	XXX-XX-X463
63	DC201502234000	WALKER JABORIS ANTONIO	DDD	POSS/REC CONTR. SUBS	Bond	3/28/1985	M	B	12/21/2015	Waived to jail	XXX-XX-X463
63	CC201300343770	WALKER JABORIS ANTONIO	MBA	PROBATION REV	Other	3/28/1985	M	B			XXX-XX-X463
63	CC201300343870	WALKER JABORIS ANTONIO	MBA	PROBATION REV	Other	3/28/1985	M	B			XXX-XX-X463
63	CC201300343970	WALKER JABORIS ANTONIO	MDA	PROBATION REV	Other	3/28/1985	M	B			XXX-XX-X463
63	CC201300343700	WALKER JABORIS ANTONIO	MBA	SELL NEAR SCHOOL	Other	3/28/1985	M	B	7/22/2014	Guilty plea	XXX-XX-X463
63	CC201300343800	WALKER JABORIS ANTONIO	MBA	SELL NEAR SCHOOL	Other	3/28/1985	M	B	7/22/2014	Guilty plea	XXX-XX-X463
63	CC201300343900	WALKER JABORIS ANTONIO	MBA	SELL NEAR SCHOOL	Other	3/28/1985	M	B	7/22/2014	Guilty plea	XXX-XX-X463
63	CC201300343800	WALKER JABORIS ANTONIO	MBA	SELL NEAR SCHOOL	Jail	3/28/1985	M	B	7/22/2014	Guilty plea	XXX-XX-X463
63	DC201302222700	WALKER JABORIS ANTONIO	DDD	SALE MARIJUANA	Jail	3/28/1985	M	B	12/23/2013	Indicted prior to adjudication	XXX-XX-X463
63	DC201302222800	WALKER JABORIS ANTONIO	DDD	SALE MARIJUANA	Other	3/28/1985	M	B	12/23/2013	Indicted prior to adjudication	XXX-XX-X463
63	DC201302222900	WALKER JABORIS ANTONIO	DDD	UNLAW DISTRIB/FURN C	Other	3/28/1985	M	B	12/23/2013	Indicted prior to adjudication	XXX-XX-X463
63	DC201302223000	WALKER JABORIS ANTONIO	DDD	UNLAW DISTRIB/FURN C	Other	3/28/1985	M	B	12/23/2013	Indicted prior to adjudication	XXX-XX-X463
63	DC201302223100	WALKER JABORIS ANTONIO	DDD	POSS MARIJUANA 1ST	Jail	3/28/1985	M	B	12/23/2013	Indicted prior to adjudication	XXX-XX-X463
63	DC201300283500	WALKER JABORIS ANTONIO	DDD	USE/POSSESS DRUG PAR	Jail	3/28/1985	M	B	10/15/2013	Transferred	XXX-XX-X463
63	TR201201333100	WALKER JABORIS ANTONIO	DDD	DRIVING WHILE REVOKE	Bond	3/28/1985	M	B	8/23/2012	Guilty Plea	XXX-XX-X463
63	CC201000171900	WALKER JABORIS ANTONIO	MDA	POSS MARIJUANA 1ST	Jail	3/28/1985	M	B	8/27/2010	Guilty plea	XXX-XX-X463
63	DC201002154500	WALKER JABORIS ANTONIO	DDD	POSS MARIJUANA 1ST	Jail	3/28/1985	M	B	8/5/2010	Waived to jail	XXX-XX-X463
63	CC200900155800	WALKER JABORIS ANTONIO	TDC	POSS MARIJUANA 1ST	Prison	3/28/1985	M	B	8/19/2010	Guilty plea	XXX-XX-X463
63	DC200902102400	WALKER JABORIS ANTONIO	DDD	POSS MARIJUANA 1ST	Prison	3/28/1985	M	B	7/7/2009	Waived to jail	XXX-XX-X463
35	TR200700810100	WALKER JABORIS ANTONIO	LJO	DRIVE W/SUSPENDED	Failure to appear	3/28/1985	M	B	4/28/2009	Guilty Plea	XXX-XX-X463

THEY counted 41 charges as one pt

Look on my Indictment they got these cases wrong (dates)

END OF THE REPORT

Worksheet A (Offense Level)

Defendant Jaboris Antonio Walker District/Office NDAL
 Docket Number (Year-Sequence-Defendant No.) 07 : -16 - or - 157_LSC SGC
 Count Number(s) 1 U.S. Code Title & Section 18 : 922(g)(1)

Guidelines Manual Edition Used: 2015 (NOTE: worksheets keyed to the Manual effective November 1, 2010)

Instructions: Offense Date: 11/1/2015 - Stat. Max: 10 years

For each count of conviction (or stipulated offense), complete a separate Worksheet A. Exception: Use only a single Worksheet A where the offense level for a group of closely related counts is based primarily on aggregate value or quantity (see §3D1.2(d)) or where a count of conspiracy, solicitation, or attempt is grouped with a substantive count that was the sole object of the conspiracy, solicitation, or attempt (see §3D1.2(a) and (b)).

1. Offense Level (See Chapter Two)

Enter the applicable base offense level and any specific offense characteristics from Chapter Two and explain the bases for these determinations. Enter the sum in the box provided.

Guideline	Description	Level
2K2.1	Base level w/ 1 UPOM 1st	+20
4B1.4		
	Obstruction Adjust:**poss. reckless endangerment (threw handgun)	
Sum		20

2. Victim-Related Adjustments (See Chapter Three, Part A)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable enter "0."

\$ 0

0

3. Role in the Offense Adjustments (See Chapter Three, Part B)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If the adjustment reduces the offense level, enter a minus (-) sign in front of the adjustment. If no adjustment is applicable, enter "0."

\$

0

4. Obstruction Adjustments (See Chapter Three, Part C)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0."

\$

+2

5. Adjusted Offense Level

Enter the sum of Items 1-4. If this worksheet does not cover all counts of conviction or stipulated offenses, complete Worksheet B. Otherwise, enter this result on Worksheet D, Item 1.

22



Check if the defendant is convicted of a single count. In such case, Worksheet B need not be completed.



If the defendant has no criminal history, enter criminal history "I" here and on Item 4, Worksheet D. In such case, Worksheet C need not be completed.

U.S. Sentencing Commission

November 22, 2010

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USSCG & 4A1 2(c)

Worksheet B

(Multiple Counts or Stipulation to Additional Offenses)

Defendant JABORIS WALKER

Docket Number _____

Instructions

Step 1: Determine if any of the counts group. (Note: All, some, or none of the counts may group. Some of the counts may have already been grouped in the application under Worksheet A, specifically, (1) counts grouped under §3D1.2(d), or (2) a count charging conspiracy, solicitation, or attempt that is grouped with the substantive count of conviction (see §3D1.2(a)). Explain the reasons for grouping:

Step 2: Using the box(es) provided below, for each group of closely related counts, enter the highest adjusted offense level from the various "A" Worksheets (Item 5) that comprise the group (see §3D1.3). (Note: A "group" may consist of a single count that has not grouped with any other count. In those instances, the offense level for the group will be the adjusted offense level for the single count.)

Step 3: Enter the number of units to be assigned to each group (see §3D1.4) as follows:

- One unit (1) for the group of closely related counts with the highest offense level
- An additional unit (1) for each group that is equally serious or 1 to 4 levels less serious
- An additional half unit (1/2) for each group that is 5 to 8 levels less serious
- No increase in units for groups that are 9 or more levels less serious

1. **Adjusted Offense Level for the First Group of Closely Related Counts**

Count number(s): _____

 _____ (unit)2. **Adjusted Offense Level for the Second Group of Closely Related Counts**

Count number(s): _____

 _____ (unit)3. **Adjusted Offense Level for the Third Group of Closely Related Counts**

Count number(s): _____

 _____ (unit)4. **Adjusted Offense Level for the Fourth Group of Closely Related Counts**

Count number(s): _____

 _____ (unit)5. **Adjusted Offense Level for the Fifth Group of Closely Related Counts**

Count number(s): _____

 _____ (unit)6. **Total Units**_____
(total units)7. **Increase in Offense Level Based on Total Units (See §3D1.4)**

1 unit:	no increase	2 1/2 - 3 units:	add 3 levels
1 1/2 units:	add 1 level	3 1/2 - 5 units:	add 4 levels
2 units:	add 2 levels	More than 5 units:	add 5 levels

8. **Highest of the Adjusted Offense Levels from Items 1-5 Above**9. **Combined Adjusted Offense Level (See §3D1.4)**

Enter the sum of Items 7 and 8 here and on Worksheet D, Item 1.

Worksheet C (Criminal History)

Defendant JABORIS WALKER

Docket Number _____

Enter the Date Defendant Commenced Participation in Instant Offense (Earliest Date of Relevant Conduct) _____

- 3 Points for each prior ADULT sentence of imprisonment EXCEEDING ONE YEAR AND ONE MONTH imposed within 15 YEARS of the defendant's commencement of the instant offense OR resulting in incarceration during any part of that 15-YEAR period. (See §§4A1.1(a) and 4A1.2.)
- 2 Points for each prior sentence of imprisonment of AT LEAST 60 DAYS resulting from an offense committed ON OR AFTER the defendant's 18th birthday not counted under §4A1.1(a) imposed within 10 YEARS of the instant offense; and

2 Points for each prior sentence of imprisonment of AT LEAST 60 DAYS resulting from an offense committed BEFORE the defendant's 18th birthday not counted under §4A1.1(a) from which the defendant was released from confinement within 5 YEARS of the instant offense. (See §§4A1.1(b) and 4A1.2.)
- 1 Point for each prior sentence resulting from an offense committed ON OR AFTER the defendant's 18th birthday not counted under §4A1.1(a) or §4A1.1(b) imposed within 10 YEARS of the instant offense; and

1 Point for each prior sentence resulting from an offense committed BEFORE the defendant's 18th birthday not counted under §4A1.1(a) or §4A1.1(b) imposed within 5 YEARS of the instant offense. (See §§4A1.1(c) and 4A1.2.)

NOTE: A maximum sum of 4 Points may be given for the prior sentences in Item 3.

Date of Imposition	Offense	Sentence	Release Date**	Guideline Section	Criminal History Pts.
7/22/2014	UPOM 1st (CC2013-3436) (CC2013-3437) (CC2013-3438) (CC2013-3439)	E0 Mo (47 suspend)/5 yr Prob	7/22/2019	Arrest:	+3
8/27/2010	UPOM 1st (CC2010-1719) concur w/ (CC09-1558), (CC05-2488)	5 years	8/27/2015	Arrest: 7/8/2010	+3
7/30/2009	UPOM 1st (CC2009-1558) concur. w/ 2005-2483 (only after UPOM 2nd)	5 years	8/30/2014	Arrest: 5/28/2009	+3

* Indicate with an asterisk those offenses where defendant was sentenced as a juvenile.

** A release date is required in only two instances:

- When a sentence covered under §4A1.1(a) was imposed more than 15 years prior to the commencement of the instant offense but release from incarceration occurred within such 15-year period;
 - When a sentence counted under §4A1.1(b) was imposed for an offense committed prior to age 18 and more than 5 years prior to the commencement of the instant offense, but release from incarceration occurred within such 5-year period; and
4. Sum of Criminal History Points for prior sentences under §§4A1.1(a), 4A1.1(b), and 4A1.1(c) (Items 1,2,3).

9

 6

Worksheet C

Page 2

Defendant JABORIS WALKER

Docket Number _____

5. 2 Points if the defendant committed the instant offense while under any criminal justice sentence (e.g., probation, parole, supervised release, imprisonment, work release, escape status). (See §§4A1.1(d) and 4A1.2.) List the type of control and identify the sentence from which control resulted. Otherwise, enter 0 Points.

CC2013-3436 - still on Probation

2

6. 1 Point for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under §4A1.1(a), (b), or (c) because such sentence was counted as a single sentence which also included another sentence resulting from a conviction for a crime of violence. (See §§4A1.1(e) and 4A1.2.) Identify the crimes of violence and briefly explain why the cases are considered a single sentence. Otherwise, enter 0 Points.

0

7. **Total Criminal History Points** (Sum of Items 4-6)

8

11

8. **Criminal History Category** (Enter here and on Worksheet D, Item 4)

IV

IV

<u>Total Points</u>	<u>Criminal History Category</u>
0-1	I
2-3	II
4-6	III
7-9	IV
10-12	V
13 or more	VI

Worksheet D

Page 2

Defendant JABORIS WALKER

Docket Number _____

9. **Sentencing Options** (Check the applicable box that corresponds to the Guideline Range entered in Item 6 or Item 7, if applicable.)
(See Chapter Five, Sentencing Table)

☐

Zone A If checked, the following options are available (see §5B1.1):

- Fine (See §5E1.2(a))
- "Straight" Probation
- Imprisonment

☐Zone B If checked, the minimum term may be satisfied by:

- Imprisonment
- Imprisonment of at least one month plus supervised release with a condition that substitutes community confinement or home detention for imprisonment (see §5C1.1(c)(2))
- Probation with a condition that substitutes intermittent confinement, community confinement, or home detention for imprisonment (see §5B1.1(a)(2) and §5C1.1(c)(3))

☐Zone C If checked, the minimum term may be satisfied by:

- Imprisonment
- Imprisonment of at least one-half of the minimum term plus supervised release with a condition that substitutes community confinement or home detention for imprisonment (see §5C1.1(d)(2))

☒Zone D If checked, the minimum term shall be satisfied by a sentence of imprisonment (see §5C1.1(f))10. **Length of Term of Probation** (See §5B1.2)

If probation is imposed, the guideline for the length of such term of probation is: (Check applicable box)

☒

At least one year, but not more than five years if the offense level total is 6 or more

☐

No more than three years if the offense level total is 5 or less

11. **Conditions of Probation** (See §5B1.3)

List any mandatory conditions ((a)(1)-(10)), standard conditions ((c)(1)-(14)), and any other special conditions that may be applicable:

Worksheet D (Guideline Worksheet)

Defendant _____ District _____

Docket Number _____

1. **Adjusted Offense Level** (From Worksheet A or B)
If Worksheet B is required, enter the result from Worksheet B, Item 9.
Otherwise, enter the result from Worksheet A, Item 5.

22

2. **Acceptance of Responsibility** (See Chapter Three, Part E)
Enter the applicable reduction of 2 or 3 levels. If no adjustment is applicable, enter "0".

-3

3. **Offense Level Total** (Item 1 less Item 2)

19

4. **Criminal History Category** (From Worksheet C)
Enter the result from Worksheet C, Item 8.

V IV

5. **Terrorism/Career Offender/Criminal Livelihood/Armed Career Criminal/Repeat and Dangerous Sex Offender**
(see Chapter Three, Part A, and Chapter Four, Part B)

- a. Offense Level Total

If the provision for Career Offender (§4B1.1), Criminal Livelihood (§4B1.3), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in an offense level total higher than Item 3, enter the offense level total. Otherwise, enter "N/A."

- b. Criminal History Category

If the provision for Terrorism (§3A1.4), Career Offender (§4B1.1), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in a criminal history category higher than Item 4, enter the applicable criminal history category. Otherwise, enter "N/A."

V

6. **Guideline Range from Sentencing Table**
Enter the applicable guideline range from Chapter Five, Part A.

57 - 71

Months

7. **Restricted Guideline Range** (See Chapter Five, Part G)
If the statutorily authorized maximum sentence or the statutorily required minimum sentence restricts the guideline range (Item 6) (see §§5G1.1 and 5G1.2), enter either the restricted guideline range or any statutory maximum or minimum penalty that would modify the guideline range. Otherwise, enter "N/A."

Months

If ACC
becomes NLT
15 - NMT Life

☐

Check this box if §5C1.2 (Limitation on Applicability of Statutory Minimum Penalties in Certain Cases) is applicable.

8. **Undischarged Term of Imprisonment** (See §5G1.3)

☐

If the defendant is subject to an undischarged term of imprisonment, check this box and list the undischarged term(s) below.

Worksheet D

Page 3

Defendant JABORIS WALKER

Docket Number _____

12. Supervised Release (See §§5D1.1 and 5D1.2)

a. A term of supervised release is: (Check applicable box)



Required because a term of imprisonment of more than one year is to be imposed or if required by statute



Authorized but not required because a term of imprisonment of one year or less is to be imposed

b. Length of Term (Guideline Range of Supervised Release): (Check applicable box)



Class A or B Felony: Three to Five Year Term (If ACC)



Class C or D Felony: Two to Three Year Term



Class E Felony or Class A Misdemeanor: One Year Term

c. Restricted Guideline Range of Supervision Release



If a statutorily required term of supervised release impacts the guideline range, check this box and enter the required term. _____

13. Conditions of Supervised Release (See §5D1.3)

List any mandatory conditions ((a)(1)-(8)), standard conditions ((c)(1)-(15)), and any other special conditions that may be applicable: _____

14. Restitution (See §5E1.1)

a. If restitution is applicable, enter the amount. Otherwise enter "N/A" and the reason: _____

b. Enter whether restitution is statutorily mandatory or discretionary: _____

c. Enter whether restitution is by an order of restitution or solely as a condition of supervision. Enter the authorizing statute: _____**15. Fines** (Guideline Range of Fines for Individual Defendants) (See §5E1.2)

a. Special fine provisions



Check box if any of the counts of conviction is for a statute with a special fine provision. (This does not include the general fine provisions of 18 USC § 3571(b)(2). (d))

MinimumMaximum

Enter the sum of statutory maximum fines for all such counts

S. _____

b. Fine Table (§5E1.2(c)(3))

Enter the minimum and maximum fines

S. _____

S. _____

c. Guideline Range of Fines

(determined by the minimum of the fine table (Item 15(b)) and the greater maximum above (Item 15(a) or 15(b)))

S. _____

S. _____

d. Ability to Pay



Check this box if the defendant does not have an ability to pay.

Worksheet D**Page 4**Defendant JABORIS WALKER

Docket Number _____

16. Special Assessments (See §5E1.3)

Enter the total amount of special assessments required for all counts of conviction:

- \$25 for each misdemeanor count of conviction
- Not less than \$100 for each felony count of conviction

\$ 100.00**17. Additional Factors**

List any additional applicable guidelines, policy statements, and statutory provisions. Also list any applicable aggravating and mitigating factors that may warrant a sentence at a particular point either within or outside the applicable guideline range. Attach additional sheets as necessary.

3 separate UPOM 1st - of that 4 are grouped in one of the three

Poss. semi-auto. firearm capable of large cap magazine

Cocaine - cross reference - Not charged but did test positive for cocaine. Never saw an amount in the discovery

Completed by /s/Lori DillashawDate 6/15/2016